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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,731	08/22/2002	Karl Heinz Schmid	C 2079 PCT/US	4546
23657	7590	07/05/2007	EXAMINER	
COGNIS CORPORATION PATENT DEPARTMENT 300 BROOKSIDE AVENUE AMBLER, PA 19002			CHANNAVAJJALA, LAKSHMI SARADA	
			ART UNIT	PAPER NUMBER
			1615	
			MAIL DATE	DELIVERY MODE
			07/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/088,731

Applicant(s)

SCHMID ET AL.

Examiner

Lakshmi S. Channavajjala

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-15, 17-21 and 23-31 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 12-15, 17-21 and 23-31 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

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DETAILED ACTION

In view of the Interview dated 6-29-07, the finality of the rejection of the last Office action is withdrawn and the following new rejection is applied to the instant claims. Examiner herewith clarifies that claims 12-15, 17-21 and 23-31 are pending and that the objection to claims 15 and 18 (in the office action dated 1-3-07) has been withdrawn.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 12-15, 17-21 and 23-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 3623887 ('887) in view of JP 09308822 or vice-versa.

'887 teaches food compositions such as flour mixes comprising a mixture of a fatty alcohol of C12-24 atoms and at least one of ester, including a fatty alcohol mono ester of a dicarboxylic acid (col. 1, L 14-30), for enhancing the emulsification. The fatty alcohol containing monoesters of dicarboxylic acids of '887 (col. 2, L 46-69) read on the instant component b and also includes the same dicarboxylic acids that are claimed in the dependent claims. '887 teach that the emulsification enhancement properties of the above compounds are also useful in cosmetic, pharmaceutical compositions in addition to food compositions (col. 1). Examples of '887 further teach sodium salts of dicarboxylic acid monoesters such as sodium stearyl fumarate (se example 3). '887 does not teach the component a) of the instant claims.

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JP teaches oil-in-water emulsion composition comprising polyglycerol esters, one or more alkyl polyglucoside for use in food, cosmetic and drug industrial products (see abstract, paragraph 0015). JP teaches the instant claimed oligoglycosides for obtaining fine emulsions and also good emulsion stability (0019).

Thus, it would have been obvious for one of an ordinary skill in the art at the time of the instant invention to use the alkyl oligoglycoside of JP in the food composition containing dicarboxylic acid monoesters of fatty alcohols of US '887 because '887 teaches the monoesters of dicarboxylic acids enhance the emulsification of the food composition and JP also teaches the alkyl oligoglucosides for enhanced emulsification. Thus, both JP and '887 teach the claimed components for the same purpose i.e., enhanced emulsification, in the same types of compositions and also both the references suggest their application in cosmetic and pharmaceutical compositions. "It is prima facie obvious to combine two compositions each of which is taught by the prior art to be useful for the same purpose, in order to form a third composition to be used for the very same purpose.... The idea of combining them flows logically from their having been individually taught in the prior art." In re Kerkhoven, 626 F.2d 846, 850, 205 USPQ 1069, 1072 (CCPA 1980). Further, optimizing the amounts of the two components for the same purpose i.e., enhanced emulsification would have been within the scope of a skilled artisan.

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Response to Arguments

Applicant's arguments, filed previously with respect to the rejection(s) of claim(s) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made, as described above.

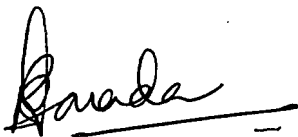
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lakshmi S. Channavajjala whose telephone number is 571-272-0591. The examiner can normally be reached on 7.00 AM - 4.00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward can be reached on 571-272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AU 1615
July 3, 2007



LAKSHMI S. CHANNAVAJJALA
PRIMARY EXAMINER